

REMARKS

Amendment to claims 1 and 8 have been amended to more clearly define the present invention and incorporate features from claims 4 and 12 thereinto respectively. Accordingly, claims 4 and 12 have been cancelled to avoid duplication.

The Examiner's rejection of the claims will be traverse on the basis of the presently amended claims.

Original claims 1-2 and 8-10 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over U.S. 2,156,629 to Hutchinson in view of U.S. 5,907,848 to Grinnell. In this rejection the Examiner has stated that Hutchinson in view of Grinnell discloses spaced apart arms, extending from the pads and said hinged handle, for holding the pads and handle in a spaced apart relationship and enabling grasping of the hinged handle by the user.

The Applicants take exception to this allegation and further have amended independent claims 1 and 8 to further define the arms as including forearms and aftarms each joined to opposite ends of the handle for holding the hinged handle in a spaced apart relationship with the folded pads. This structural feature is most clearly seen in Figure 2.

This structure is neither taught nor suggested by either Hutchinson or Grinnell or a combination of the two references. With regard to Hutchinson, the straps 15, 16 interconnecting the pads of 10, 11 are provided for

preventing the two pads or seat members 10 and 11 from being displaced relative to each other. There is no structure such as a handle, which functions in a manner similar to the handle of the present invention for carrying the Hutchinson seat.

The Examiner states that Grinnell teaches such a handle and it could be attached between the two straps 15, 16. Assuming, arguendo, that this is a proper combination, it still does not suggest or teach arms which hold the hinged handle in a spaced apart relationship with the folded pads, as shown in Figure 2 of the present application.

In addition, the Applicants submit that there is no motivation for this combination since the Hutchinson seat is not meant to be easily portable in view of the fact that straps 17, 18, 19 and rings 20 are provided to secure the seat member to a supporting surface, see Column 2, lines 41-49. Thus, the Applicants submit there is no motivation to provide a handle for the Hutchinson seat.

The Applicants submit that the mere fact that teaching is found in prior art could be combined as proposed by the Examiner does not make the combination obvious, absent, some teaching, suggestion, or incentive supporting the proposed combination. Ex parte Metcalf, 67 USPQ 2d 1633, 1635 (USPTO Board of Patent Appeals and Interferences 2003).

In the case at hand, the Applicants submit that the straps utilized by Hutchinson to secure the seat to a

supporting surface is evidence supporting the conclusion that the Hutchinson seat was not meant to be portable and accordingly, there would be no motivation to provide a handle thereto.

Turning to the Grinnell reference, it is clear that the carrying handle 90 is attached to the strip 70 for carrying the apparatus as shown in Figure 5 and described in column 4, lines 53-55. However, there is no teaching or suggestion of spaced apart arms extending from the pads and the hinged handles for holding the pads and the handle in a spaced apart relationship, particularly when the pads are folded.

The strip 70 of Grinnell clearly extends between the pads, however, does not include a forearm and an aftarm for supporting the opposite ends of the handle. Even if portions of the strip 70 were considered independently to be the equivalent of a forearm and an aftarm, there is no support of the handle in a spaced apart relationship either when the pads are in a planar relationship or in folded relationship.

The handle 90 itself includes opposite ends attached to the strip 70. However, these opposite ends cannot be construed as fore and aftarms since they do not extend between the pads, but rather are fixed to the strip 70. In addition, the ends of the handle 70 do not hold the handle in a spaced apart relationship with the folded pads.

If the ends are considered to be holding the handle 90 in a spaced apart relationship, that relationship would be

with the strip 70. That is, the ends of the handle 70 cannot be considered spaced apart arms extending from the pads and attached thereto for holding the pads and the handle in a spaced apart relationship.

Accordingly, the Applicants respectfully submit that the Examiner has not made a prima facie case of obviousness under 35 USC 103(a) and respectfully request the withdrawal of the rejection of claims 1-2 and 8-10 on the basis of the Hutchinson and Grinnell references.

Claims 3-6 and 11-14 also have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Hutchinson in view of Grinnell and further in view of U.S. 4,031,578 to Sweeney. The Examiner relies on Sweeney as teaching a molded padding assembly of unitary construction. While such unitary construction is shown in Sweeney, there is no teaching in Sweeney of the handle and forearm relationship hereinabove argued with regard to the Hutchinson and Grinnell references and accordingly a prima facie case of obviousness under 35 USC 103(a) is not made by the combination of Hutchinson, Grinnell and Sweeney. The withdrawal of the rejection of claims 3-6 and 11-14 under 35 USC 103(a) is respectfully requested to be withdrawn.

Claims 7 has been separately rejected by the Examiner under 35 USC 103(a) as being unpatentable over Hutchinson in view of Grinnell and further in view of U.S. 5,611,098 to Skibik. The Examiner relies on Skibik for a teaching of a closure strap, specifically claimed in claim 7. However, Skibik provides no further teaching of the elements

hereinabove discussed, specifically the spaced apart arms for holding the handle and the pads in a spaced apart relationship when folded.

Therefore, the Applicants submit that a prima facie case of obviousness for claim 7 has not been made under 35 USC 103(a) and respectfully request the Examiner to withdraw this rejection.


In view of the arguments hereinabove set forth and amendment to the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectively requested.

Respectfully submitted,



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